



DEPARTMENT OF EDUCATION

34 CFR Chapter III

[Docket ID ED-2023-OSERS-0020]

Proposed Priority and Definition--Activities for
Underserved Populations

AGENCY: Office of Special Education and Rehabilitative
Services, Department of Education.

ACTION: Proposed priority and definition.

SUMMARY: The U.S. Department of Education (Department)
proposes a priority and definition under the Rehabilitation
Act of 1973, as amended (Rehabilitation Act), for
Activities for Underserved Populations, Assistance Listing
Number (ALN) 84.315C. The purpose of this priority is to
make awards to minority entities and Indian Tribes to
conduct research, training and technical assistance, and
related activities to improve services under the
Rehabilitation Act, especially services provided to
underserved populations. For this priority, as discussed
further in SUPPLEMENTARY INFORMATION, we propose to define
"underserved populations" to mean "Black, Latino, and
Indigenous and Native American persons, Asian Americans and
Pacific Islanders, and other persons of color." The
Department may use the proposed priority and definition for
competitions in fiscal year (FY) 2023 and later years.

DATES: We must receive your comments on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Comments must be submitted via the Federal eRulemaking Portal at www.regulations.gov. However, if you require an accommodation or cannot otherwise submit your comments via [regulations.gov](http://www.regulations.gov), please contact the program contact person listed under FOR FURTHER INFORMATION CONTACT. The Department will not accept comments by fax or by email, or comments submitted after the comment period closes. To ensure that the Department does not receive duplicate copies, please submit your comments only once. Additionally, please include the Docket ID at the top of your comments.

Federal eRulemaking Portal: Go to www.regulations.gov to submit your comments electronically. Information on using [Regulations.gov](http://www.regulations.gov), including instructions for finding a rule on the site and submitting comments, is available on the site under "FAQ."

Privacy Note: The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at www.regulations.gov. Therefore, commenters should include in their comments only information about themselves that they wish to make publicly available. Commenters should not include in their comments

any information that identifies other individuals or that permits readers to identify other individuals.

FOR FURTHER INFORMATION CONTACT: Kristen Rhinehart-Fernandez, U.S. Department of Education, 400 Maryland Avenue, SW, room 5076, Potomac Center Plaza, Washington, DC 20202-5076. Telephone: (202) 245-6103. Email: 315C@ed.gov

If you are Deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7-1-1.

SUPPLEMENTARY INFORMATION:

Invitation to Comment: We invite you to submit comments regarding the proposed priority and definition. To ensure that your comments have maximum effect in developing the final priority and definition, we urge you to clearly identify the parts of the proposed priority or definition that each comment addresses. In addition to your general comments and recommended clarifications, we are particularly interested in comments about whether the proposed priority or any of the proposed requirements included in the priority would be challenging to meet, especially for new applicants, and, if so, how the proposed priority and its requirements could be revised to address potential challenges. In addition, responses to the directed question below will assist the Department in

developing a priority based on critical feedback from the field.

Directed Questions:

The proposed priority would require applicants to provide training and technical assistance to a minimum of 15 State Vocational Rehabilitation (VR) agencies (Combined, General, or Agencies for the Blind) over a five-year period. The Department identified a minimum number of State VR agencies based on factors such as cost, level of effort, scope of the project, duration of the training and technical assistance, and the unique challenges and demographics of State VR agencies. Considering these factors, are there any challenges to providing training and technical assistance to a minimum of 15 State VR agencies over a five-year period? Is it reasonable to provide training and technical assistance to more than 15 State VR agencies and if not, what would be an achievable minimum target over a five-year period? Please provide justification to support your responses, if possible.

We invite you to assist us in complying with the specific requirements of Executive Orders 12866 and 13563 and their overall requirement of reducing regulatory burden that might result from the proposed priority. Please let us know of any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient

administration of the program. The Department also welcomes comments on any alternative approaches to the subjects addressed by the proposed regulations.

During and after the comment period, you may inspect all public comments about the proposed priority and definition by accessing Regulations.gov. You may also inspect the comments in person. Please contact the person listed under FOR FURTHER INFORMATION CONTACT to make arrangements to inspect the comments in person.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record: On request, we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for the proposed priority and definition. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under FOR FURTHER INFORMATION CONTACT.

Purpose of Program: The purpose of this activity for underserved populations is to make awards to minority entities and Indian Tribes to conduct research, training, technical assistance, or a related activity to improve the quality, access, delivery of services, and competitive integrated employment outcomes under the Rehabilitation Act, especially for individuals with disabilities from underserved populations. As defined in the Rehabilitation

Act, "minority entity" means a historically Black college or university, a Hispanic-serving institution of higher education, an American Indian Tribal college or university, or another institution of higher education whose minority student enrollment is at least 50 percent. The definition of "Indian Tribe" in section 7(19)(B) of the Rehabilitation Act is "any Federal or State Indian tribe, band, rancheria, pueblo, colony, or community, including any Alaskan native village or regional village corporation (as defined in or established pursuant to the Alaska Native Claims Settlement Act) and a tribal organization (as defined in section 4(1) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(1))."

Program Authority: 29 U.S.C. 718(b)(2)(B).

PROPOSED PRIORITY AND DEFINITION:

Background:

The purpose of this proposed priority, together with the proposed definition, is to improve the delivery of Vocational Rehabilitation (VR) services to, and employment outcomes of, individuals with disabilities from underserved populations. The proposed priority would support training and technical assistance for a minimum of 15 State VR agencies (Combined, General, or Agencies for the Blind) over a five-year period so that the agencies are equipped to serve as role models for diversity, equity, inclusion, and accessibility in the workforce system by implementing policies, practices, and service delivery approaches

designed to contribute to increasing competitive integrated employment outcomes for individuals with disabilities from underserved populations. Further, the proposed priority would require contributions to VR research and pedagogical practices that promote access to approaches that are racially, ethnically, culturally, and linguistically inclusive.

The proposed priority also incorporates findings, strategies, and recommendations from the Vocational Rehabilitation Technical Assistance Center for Targeted Communities¹ (herein referred to as Targeted Communities), funded by the Department from FY 2016 through FY 2021. In the Final Report, Targeted Communities found that inequities and challenges experienced by underserved populations must be better understood by personnel working in State VR programs. Specifically, one of the findings suggested that increased understanding of the lived experience, daily stressors, and subsequent trauma faced by many, including individuals with disabilities from underserved populations, can help to modernize the VR program, build trust between individuals with disabilities from underserved populations and VR program personnel, and improve service delivery.

¹ Final Report from the Vocational Rehabilitation Technical Assistance Center for Targeted Communities (Project E3) (PR/Award #H264F150003): <https://ncrtm.ed.gov/library/detail/vocational-rehabilitation-technical-assistance-center-targeted-communities-project> and project website: <https://projecte3.com/>

In support of the need for activities for individuals with disabilities from underserved populations, Congress found that “patterns of inequitable treatment of minorities have been documented in all major junctures of the vocational rehabilitation process. As compared to white Americans, a larger percentage of African-American applicants to the vocational rehabilitation system is denied acceptance. Of applicants accepted for service, a larger percentage of African-American cases is closed without being rehabilitated. Minorities are provided less training than their white counterparts. Consistently, less money is spent on minorities than on their white counterparts” (Section 21(a)(3) of the Rehabilitation Act of 1973, as amended).

Data from the Rehabilitation Services Administration (RSA) 911² and the Bureau of Labor Statistics also support the need for activities that serve individuals with disabilities from underserved populations. The following data points demonstrate inequities in employment and competitive integrated employment outcomes based on race. According to RSA-911 data, in Program Year (PY) 2021, 23.4 percent (188,807 of 808,384) of VR participants identified their race as Black/African American and 71.9 percent

²The RSA-911 collects a variety of data about participant characteristics (sex, age, race, disability, health insurance, education level, etc.), barriers to employment (ex-offender, homeless, single parent, etc.), services provided (career, training, and other services), duration of VR case, employment status at the time of exit from the program, and employment status post-exit.

(581,069 of 808,384) identified their race as white. In the same year, the VR employment rate for Black Americans was 38.9 percent (24,944 of 64,081) while the VR employment rate for white Americans was 46.6 percent (91,070 of 195,528). Further, according to the Bureau of Labor Statistics (2021), the overall unemployment rate among persons with a disability was 15 percent for Black Americans and 9.3 percent for white Americans. The proposed priority addresses areas within VR that can be strengthened to improve opportunities for individuals with disabilities from underserved populations. Under the proposed priority, training and technical assistance would be provided to State VR agencies in areas that include identifying and addressing inequalities in service delivery, securing a diverse and well-prepared VR workforce, supporting cross-agency and cross-community partnerships at the State and local levels, and providing tools designed to ensure that VR program participants from underserved populations receive equitable access to resources and referrals needed to meet their full potential. These areas are aligned with the Secretary's Supplemental Priorities and Definitions for Discretionary Grant Programs, published in the Federal Register on December 10, 2021 (86 FR 70612) and Executive Order 13985 for Advancing Racial Equity and Support for Underserved Communities Through Federal Government, published in the Federal Register on January 25, 2021.

To address any inequities in the VR system and better enable individuals with disabilities from underserved populations to access the VR resources needed to secure competitive integrated employment and reach future goals, under the priority, a grantee would be required to work with a minimum of 15 State VR agencies to examine and analyze data between VR program participants from underserved populations and VR program participants who are not from underserved populations from eligibility determination to exit. The information gathered would inform training and technical assistance activities designed for each identified State agency. In developing training and technical assistance activities, applicants are encouraged to consider relevant strategies identified in the Targeted Communities project. For example, several Targeted Communities sites identified Community-Based Participatory Research (CBPR) as a strategy to gain an understanding of a community's unique issues and concerns. The methodology behind CBPR is predicated on deep and extensive community involvement in identifying and resolving issues and concerns. State VR agencies may benefit from training and technical assistance activities that use data and information gathered about employment outcomes for underserved populations to inform outreach, build trust in the communities they are serving, and increase competitive integrated employment opportunities.

VR professionals play a critical role in ensuring equity in the workforce system as well as VR participant success. A diverse VR workforce benefits all individuals with disabilities, and counselor diversity in particular can improve competitive integrated employment outcomes for underserved populations. Within the comparative field of mental health, research indicates a significant correlation between race concordance and quality of care for underserved populations. Race concordance occurs when patients and providers have a shared racial or ethnic identity (Coates et al., 2022). In a 2021 study conducted by Georgetown University researchers, 47 parents of Black patients with mental health disabilities were surveyed to determine preferences regarding race concordance. According to the study, 83 percent of all survey participants preferred race concordance and believed it was important for providers to be of the same race or ethnicity as their patients. The study found that participants with a race concordance preference felt enhanced comfort and safety, relatability, and cultural understanding when patients and providers shared the same race or ethnicity. Participants also attributed race concordance to enhanced feelings of trustworthiness and mutual respect, which led to progress in mental health treatment. This study indicates that the commonality of race or ethnicity between provider and patient of underserved populations improves

quality of care. VR consumers from underserved populations would benefit from a diverse pool of VR counselors.

Through the proposed priority, we seek to strengthen the diversity of the VR workforce to enhance the delivery of VR services for individuals with disabilities from underserved populations.

State VR agencies are an essential resource, providing and connecting individuals with disabilities with resources and referrals they need to meet their full potential. It is vital that individuals with disabilities from underserved populations have equitable access to education, job training, and other community resources to achieve competitive integrated employment outcomes. These needs are best met through cross-agency coordination and partnerships between State VR agencies, community rehabilitation providers, educational institutions, and other service-oriented organizations in the community. The proposed priority would require grantees to establish or build on existing cross-agency partnerships, community and faith-based partnerships, and partnerships with local nonprofit organizations and business and philanthropic organizations to communicate the use and benefits of VR services and support pathways to education and employment. We believe such effective partnerships can strengthen community vitality and support long-term change. In the Targeted Communities project, six sites identified a

community outreach and orientation strategy to increase referrals for VR services from community-based organizations and applications from individuals with disabilities. Strengthened community partnerships led to formalized agreements between partner agencies and, as a result, led to formalized agreements between VR and partner sites.

For these reasons, the Department proposes a priority that would expand promising and effective practices for serving individuals with disabilities from underserved populations and provide training and technical assistance that may be replicated and sustained across State VR agencies and incorporated into rehabilitation counseling programs. By creating a culture of shared responsibility, accountability, and inclusivity within State VR agencies, the proposed priority is designed to strengthen the delivery of services to individuals with disabilities from underserved populations and increase competitive integrated employment outcomes.

To ensure a common understanding of the proposed priority, we propose to define "underserved populations" to mean Black, Latino, and Indigenous (including Alaska Natives and Native Hawaiians) and Native American persons, Asian Americans and Pacific Islanders, and other persons of color. This definition focuses on the racial and ethnic characteristics of underserved populations because the

program authority under which the funding is appropriated is based on Congressional findings regarding the inequitable treatment of individuals from minority backgrounds in the VR process and instructs the Secretary to concentrate on improving the outcome of services provided under the Act to individuals from minority backgrounds. 29 U.S.C. 718 (Section 21 "Traditionally underserved populations"). The language used in the definition is aligned with the Secretary's Supplemental Priorities published in the *Federal Register* on December 10, 2021 (86 FR 70612) and Executive Order 13985, "Advancing Racial Equity and Support for Underserved Communities Through the Federal Government," published in the *Federal Register* on January 25, 2021 (86 FR 7009).

We propose this definition to clarify that the purpose and intent of this activity under 29 U.S.C. 718(b)(2)(B) is to make awards "to minority entities and Indian Tribes to conduct research, training and technical assistance, and related activities to improve services under the Rehabilitation Act, especially services provided to individuals from minority backgrounds."

Nothing in the proposed priority or definition would alter an applicant's or grantee's obligations to comply with nondiscrimination requirements in Federal civil rights laws.

References:

Coates, E., Moore, C., Watson, A., de Heer, R., McLeod, A., & Prudhomme, A. (2022). "It's Important to Work with People that Look Like Me": Black Patients' Preferences for Patient-Provider Race Concordance. *Journal of racial and ethnic health disparities*, 1-13. Advance online publication. <https://doi.org/10.1007/s40615-022-01435-y>

Persons with a Disability: Labor Force Characteristics (2021). Economic News Release. U.S. Bureau of Labor Statistics. <https://www.bls.gov/cps/tables.htm>

Rehabilitation Act of 1973, as amended, Section 21(a)(3). U.S. Bureau of Labor Statistics Current Population Survey (2019). <https://www.bls.gov/cps/tables.htm>

Targeted Communities. Final Report from the Vocational Rehabilitation Technical Assistance Center for Targeted Communities (Project E3) (PR/Award # H264F150003) <https://ncrtm.ed.gov/library/detail/vocational-rehabilitation-technical-assistance-center-targeted-communities-project> and project website: <https://projecte3.com/>.

Proposed Priority:

Improving the Delivery of Vocational Rehabilitation Services to, and the Employment Outcomes of, Individuals with Disabilities from Underserved Populations.

Under this priority, the Department provides funding for a cooperative agreement for a minority entity or an Indian Tribe to provide training and technical assistance to a minimum of 15 State VR agencies (Combined, General, or Agencies for the Blind) over a five-year period of performance so that the agencies are equipped to serve as role models for diversity, equity, inclusion, and accessibility in the workforce system by implementing policies, practices, and service delivery approaches that are designed to contribute to increasing competitive integrated employment outcomes for individuals with disabilities from underserved populations. Further, the grantee must contribute to VR research and pedagogical practices that promote access to approaches that are racially, ethnically, culturally, and linguistically inclusive.

During the first year of the project the grantee will focus on developing training and technical assistance material and gathering input and feedback from a diverse group of stakeholders including RSA, State VR agencies, and other relevant partners. During the period of performance, the grantee must enter into agreements with the State VR agencies receiving training and technical assistance. Each agreement must: specify the level of involvement from VR agency leadership and personnel and include an assurance that the VR agency is committed to sustainable systems

change across the organization for improving delivery of services to underserved populations; explain how data will be collected and shared; identify training and technical assistance needs, intervention strategies, and implementation timelines; and describe how outcomes will be measured. The grantee must have a minimum of two agreements in place by the end of the first year of the grant.

Application Requirements

To be considered for funding under this priority, applicants must, at a minimum, propose a project that will conduct the following activities in a culturally appropriate manner. The Department encourages innovative approaches to meet this requirement. To meet this requirement, applicants must--

(a) Demonstrate, in the narrative section of the application under "Significance of the Proposed Project," an understanding of the inequalities and challenges experienced by individuals with disabilities from underserved populations determined eligible to receive VR services. To meet this requirement, applicants must--

(1) Present information and relevant data about the disparities that exist with respect to VR services and employment outcomes for underserved populations; and

(2) Describe how the project proposes to improve VR services for, and competitive integrated employment outcomes of, underserved populations.

(b) Demonstrate, in the narrative section of the application under "Quality of Project Design," how the project will address inequalities and challenges experienced by underserved populations determined eligible to receive VR services. To meet this requirement, applicants must--

(1) Demonstrate knowledge and experience working with individuals with disabilities from underserved populations;

(2) Incorporate into the project design current research and promising and evidence-based practices (EBPs),³ research about adult learning principles and implementation science, and relevant findings, recommendations, and relevant strategies identified by the Targeted Communities project to overcome barriers to competitive integrated employment and VR participation for individuals with disabilities from underserved populations;

(3) Detail how the project will collect and examine data, including from the RSA-911 and other relevant sources, from a minimum of 15 State VR agencies regarding

³ For purposes of these requirements, "evidence-based practices" (EBPs) means, at a minimum, demonstrating a rationale (as defined in 34 CFR 77.1) based on high-quality research findings or positive evaluation that such activity, strategy, or intervention is likely to improve student outcomes or other relevant outcomes.

VR applicants, VR-eligible individuals, and VR participants by race/ethnicity by:

(i) Exploring patterns, changes, or shifts in demographics for individuals with disabilities from underserved populations;

(ii) Explore data, by race/ ethnicity, from each State VR agency regarding VR applicants to identify opportunities for increased outreach to and referral of individuals with disabilities from underserved populations to VR services;

(iii) Examining data, by race/ ethnicity, from each State VR agency regarding selected VR services and competitive integrated employment outcomes at exit to identify inconsistencies or gaps in the provision of services;

(iv) Examining data from each State VR agency to identify reasons for successful and unsuccessful closures between VR program participants from underserved populations and VR program participants who are not from underserved populations; and

(v) Reviewing each State VR agency's service delivery model from eligibility determination to exit; and

(4) Present approaches for how the information and data described above will be used to inform strategies to improve the delivery of services to individuals with disabilities from underserved populations for each of the

identified State VR agencies. For example, applicants may consider conducting a needs assessment and asset map for each of the identified State VR agencies to identify existing programs and services and businesses and philanthropic organizations in the community, as well as potential gaps and opportunities for collaboration, to support individuals with disabilities from underserved populations in successfully obtaining competitive integrated employment. Applicants may also consider designing a long-term data collection tool and provide analytical support and training to the identified State VR agencies to identify additional data elements not captured in the RSA-911 or other case management systems to continually assess the quality of services and outcomes for individuals with disabilities from underserved populations and individuals with disabilities not from underserved populations.

(c) Demonstrate, in the narrative section of the application under "Quality of Project Services," how the project will be designed so that policies, practices, and service delivery approaches will contribute to increased competitive integrated employment outcomes for individuals with disabilities from underserved populations. To meet this requirement, applicants must--

(1) Propose training and technical assistance

activities that will be offered to the identified State VR agencies. Training and technical assistance activities will be further developed during the first year of the grant and described in the agreements with the identified State VR agencies based on needs and analysis of data. Training and technical assistance activities may include, but are not limited to, (i) assisting in State VR agency coordination and cross-agency partnerships with State and local agencies and community-based organizations, workforce programs, educational institutions, and other relevant local community agencies and organizations (i.e., agencies and organizations that provide services and supports related to behavioral and mental health, substance dependence, intellectual developmental disabilities, and other areas of need such as housing, food, transportation, and healthcare) to strengthen outreach and awareness about VR programs and services, build trust between State VR agency counselors and individuals with disabilities from underserved populations, and connect individuals from underserved populations determined to be VR eligible with necessary supports to successfully obtain competitive integrated employment; (ii) reviewing policies, practices, and procedures from the identified State VR agencies and providing recommendations to help ensure they are culturally appropriate and implemented in an appropriate manner; (iii) developing strategies to strengthen diversity

in the VR workforce (e.g., reviewing hiring practices from the identified State VR agencies and identifying strategies that expand outreach to VR counselors from underserved populations and mentoring and coaching activities for new and existing VR counselors and paraprofessionals, human resource and professional development specialists, and VR management and leadership personnel from underserved populations); and (iv) any other activity that improves understanding, responsiveness, and delivery of services to, and competitive integrated employment outcomes for, underserved populations;

(2) Detail how those activities will incorporate relevant strategies and promising and effective practices identified by the Targeted Communities Project and other EBPs or related sources, to the extent possible;

(3) Explain how training and technical assistance activities will be of high quality and sufficient intensity and duration to achieve the intended outcomes of the project;

(4) Describe how remote learning⁴ opportunities will be incorporated into the project. Remote learning opportunities should offer experiences that advance engagement and implementation (e.g., synchronous and

⁴“Remote learning” means programming where at least part of the learning occurs away from the physical building in a manner that addresses a learner's educational needs. Remote learning may include online, hybrid/blended learning, or non-technology-based learning (e.g., lab kits, project supplies, paper packets). (85 FR 86550 (December 30, 2020))

asynchronous professional learning, professional learning networks or communities, and coaching), which could also be incorporated into Rehabilitation Counseling programs, as well as other training and professional development activities designed for the VR workforce, as appropriate. The remote learning environment must be accessible to individuals with disabilities in accordance with Section 504 of the Rehabilitation Act of 1973;

(5) Describe their knowledge, skills, and experience to support the training and technical assistance activities described above;

(6) Describe how the project will contribute to VR research and pedagogical practices that promote access to approaches that are racially, ethnically, culturally, and linguistically inclusive. To meet this requirement, applicants must describe how they will--

(i) Disseminate to all State VR agencies, RSA-funded Rehabilitation Long-Term Training projects and TA Centers, Department-funded programs, and Federal partners, as applicable, training and technical assistance material, analysis of data collected, evidence-based and promising practices, and lessons learned;

(ii) Develop products, such as toolkits, guides, manuals, webinars, and communities of learning, for instructors, facilitators, State VR agency directors, and human resource and professional development specialists to

facilitate the implementation of training and technical assistance material in curriculum and relevant training and development activities; and

(iii) Gather input and feedback from a diverse group of stakeholders and subject matter experts, including RSA, State VR agencies, and other relevant partners, throughout the project to inform the development and delivery of the material described above.

(d) In the narrative section of the application under "Quality of the project evaluation," include an evaluation plan for the project. The evaluation plan must describe--

(1) Clear and measurable outcomes;

(2) Approaches for measuring the effectiveness of the intervention strategies identified in the agreements, including standards and targets for measuring knowledge, skills, and abilities of State VR agency personnel before and after completion of training activities. To address this requirement, applicants must provide an approach for determining--

(i) The most effective practices in improving the delivery of services to individuals with disabilities from underserved populations and the data that demonstrate the effectiveness of the practices; and

(ii) The most effective practices in creating a culture of systems change within the State VR agency and

the data that demonstrate the effectiveness of the practices;

(3) Methodologies, including instruments, data collection methods, and analyses, that will be used to evaluate the project and how the methods of evaluation will produce quantitative and qualitative data to demonstrate whether the project activities achieved their intended outcomes;

(4) How the evaluation will be coordinated, implemented, and revised, as needed, during the project. The applicant must designate at least one individual with sufficient dedicated time, demonstrated experience in evaluation, and knowledge of the project to coordinate and conduct the evaluation. This may include, but is not limited to, making revisions to reflect any changes or clarifications, as needed, to the model and to the evaluation design and instrumentation with the logic model (e.g., designing instruments and developing quantitative or qualitative data collections that permit collecting of progress data and assessing project outcomes);

(5) How evaluation results will be used to improve delivery of services to VR program participants from underserved populations from eligibility determination to exit. To address this requirement, applicants must provide an approach to gather input and feedback that includes the experiences of VR program participants from underserved

populations. Applicants may consider voluntary focus groups, use of a unique identifier, or another approach that adheres to consumer confidentiality requirements in 34 CFR 361.38; and

(6) A process for gathering feedback from the identified State VR agencies for continuous improvement throughout years two, three, four, and five of the project.

(e) Demonstrate, in the narrative section of the application under "Quality of the Management Plan," how applicants will ensure that--

(1) The project's intended outcomes, including the evaluation, will be achieved on time and within budget through--

(i) Clearly defined responsibilities of key project personnel, subawards, and contracts, as applicable;

(ii) Procedures to track and ensure completion of the action steps, timelines, and milestones established for key project activities, requirements, and deliverables;

(iii) Internal monitoring processes to ensure that the project is being implemented in accordance with the established application and management plan; and

(iv) Internal financial management controls to increase efficiency and cost-effectiveness, including by reducing waste or achieving better outcomes, and how the applicant will ensure accurate and timely obligations, drawdowns, and reporting of grant funds, as well as

monitoring subawards as applicable, in accordance with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 CFR part 200 and the terms and conditions of the Federal award;

(2) The allocation of key project personnel, subawards, as applicable, and levels of effort of key personnel are appropriate and adequate to achieve the project's intended outcomes;

(3) The products and services are of high quality, relevance, and usefulness, in both content and delivery and are accessible to individuals with disabilities in accordance with Section 504 of the Rehabilitation Act of 1973, as applicable;

(4) The proposed project will benefit from a diversity of perspectives; and

(5) Projects will be awarded and operated in a manner consistent with nondiscrimination requirements contained in the Federal civil rights laws.

(f) Include the following:

(1) In Appendix A, personnel-loading charts and timelines, as applicable, to illustrate the management plan described in the narrative;

(2) In Appendix A, a logic model⁵ that depicts, at a minimum, the goals, activities, outputs, and outcomes of the proposed project;

(3) An assurance to maintain a high-quality website, with an easy-to-navigate design that is accessible to individuals with disabilities in accordance with Section 504 of the Rehabilitation Act of 1973, as applicable ; and

(4) An assurance that training and technical assistance materials such as outreach, training curricula, presentations, reports, outcomes, and other relevant information will be submitted to RSA's National Clearinghouse of Rehabilitation Training Materials (NCRTM) (<https://ncrtm.ed.gov/>) at least 90 days before the end of the final budget period.

Note: If this proposed priority is used in a notice inviting applications, under 34 CFR 75.708(b) and (c) a grantee would be able to award subgrants to directly carry out project activities described in its application to the following entities: institutions of higher education, and public and private nonprofit organizations. There would be no cost share or cost match requirements.

Proposed Definition:

⁵ "Logic model" (also referred to as a theory of action) means a framework that identifies key project components of the proposed project (i.e., the active "ingredients" that are hypothesized to be critical to achieving the relevant outcomes) and describes the theoretical and operational relationships among the key project components and relevant outcomes. (34 CFR 77.1)

Underserved populations means Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders, and other persons of color.

Types of Priorities:

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the *Federal Register*. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

Final Priority and Definition:

We will announce the final priority and definition in a document in the *Federal Register*. We will determine the final priority and definition after considering responses to this document and other information available to the Department. This document does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This document does not solicit applications. In any year in which we choose to use this proposed priority and definition, we invite applications through a notice in the *Federal Register*.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Office of Management and Budget (OMB) determines whether this regulatory action is "significant" and, therefore, subject to the requirements of the Executive order and subject to review by OMB. Section 3(f) of Executive Order 12866 defines a "significant regulatory action" as an action likely to result in a rule that may--

(1) Have an annual effect on the economy of \$100 million or more or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal

governments or communities in a material way (also referred to as an "economically significant" rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

OMB has determined that this proposed regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this proposed regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency--

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives

and taking into account--among other things and to the extent practicable--the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives--such as user fees or marketable permits--to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency "to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible." The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include "identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes."

We are issuing this proposed priority and definition only on a reasoned determination that their benefits would justify the costs. In choosing among alternative

regulatory approaches, we selected the approach that maximizes net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

The potential costs associated with this priority and definition would be minimal, while the potential benefits are significant. The Department believes that this regulatory action does not impose significant costs on eligible entities. Participation in this program is voluntary, and the costs imposed on applicants by this regulatory action would be limited to paperwork burden related to preparing an application. The potential benefits of implementing the program would outweigh the costs incurred by applicants, and the costs of carrying out activities associated with the application would be paid for with program funds. For these reasons, we have determined that the costs of implementation would not be burdensome for eligible applicants, including small entities.

We also have determined that this regulatory action does not unduly interfere with State, local, and Tribal governments in the exercise of their governmental functions.

In accordance with these Executive Orders, the Department has assessed the potential costs and benefits,

both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

In addition, we have considered the potential benefits of this regulatory action and have noted these benefits in the background section of this document.

Paperwork Reduction Act of 1995

The proposed priority contains information collection requirements that are approved by OMB under OMB control number 1820-0028; the proposed priority does not affect the currently approved data collection.

Clarity of the Regulations

Executive Order 12866 and the Presidential memorandum "Plain Language in Government Writing" require each agency to write regulations that are easy to understand.

The Secretary invites comments on how to make the proposed priority and definition easier to understand, including answers to questions such as the following:

- Are the requirements in the proposed regulations clearly stated?
- Do the proposed regulations contain technical terms or other wording that interferes with their clarity?
- Does the format of the proposed regulations (grouping and order of sections, use of headings,

paragraphing, etc.) aid or reduce their clarity?

- Would the proposed regulations be easier to understand if we divided them into more (but shorter) sections?

- Could the description of the proposed regulations in the SUPPLEMENTARY INFORMATION section of this preamble be more helpful in making the proposed regulations easier to understand? If so, how?

- What else could we do to make the proposed regulations easier to understand?

To send any comments that concern how the Department could make these proposed regulations easier to understand, see the instructions in the ADDRESSES section.

Regulatory Flexibility Act Certification: The Secretary certifies that this proposed regulatory action would not have a significant economic impact on a substantial number of small entities. The U.S. Small Business Administration Size Standards define “small entities” as for-profit or nonprofit institutions with total annual revenue below \$7,000,000 or, if they are institutions controlled by small governmental jurisdictions (that are comprised of cities, counties, towns, townships, villages, school districts, or special districts), with a population of less than 50,000.

The small entities that this proposed regulatory action would affect are minority entities and Indian Tribes that may apply. We believe that the costs imposed on an

applicant by the proposed priority and definition would be limited to paperwork burden related to preparing an application and that the benefits of the proposed priority and definition would outweigh any costs incurred by the applicant. We also believe that there are very few entities that could provide the type of technical assistance required under the proposed priority and definition. For these reasons, the proposed priority and definition would not impose a burden on a significant number of small entities.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Accessible Format: On request to the program contact person listed under FOR FURTHER INFORMATION CONTACT, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an

MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

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search feature at www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Katherine Neas,
Deputy Assistant Secretary.
Delegated the authority to perform
the functions and duties of the
Assistant Secretary for the Office
of Special Education and
Rehabilitative Services.

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